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Douglas U. Mennie

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EXAMINER

SWARTZ, JAMIE H

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PAPER

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* DOUGLAS U. MENNIE,
9 WILLIAM J. JONES, and
10 MARK C. MUNRO
11

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13 Appeal 2009-006570
14 Application 10/084,856
15 Technology Center 3600
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18 Decided: April 28, 2010
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21 Before HUBERT C. LORIN, ANTON W. FETTING, and BIBHU R. MOHANTY,
22 *Administrative Patent Judges.*
23 FETTING, *Administrative Patent Judge.*

24 DECISION ON REQUEST FOR REHEARING
25

STATEMENT OF THE CASE

The Appellants filed a REQUEST FOR REHEARING on March 1, 2010.

The Examiner rejected claims 258-261 and 267-270 under 35 U.S.C. § 112, first and second paragraphs. We reversed these rejections in our Decision issued December 28, 2009.

The Examiner further rejected claims 258-261 and 267-270 under 35 U.S.C. § 103(a) as unpatentable over Smith and Avnet. We affirmed these rejections in our December 28, 2009 Decision.

The Appellants seek reconsideration of the decision to affirm these rejections.

We DENY the REQUEST FOR REHEARING.

ISSUES

The issue pertinent to this request is whether the Appellants have sustained their burden of showing that we misapprehended the art and thus erred in sustaining the rejections of claims. 37 C.F.R. 41.52(a)(1).

The pertinent issue turns on whether Smith describes the step of singulating the bulk coins using a coin separation device.

ANALYSIS

We found in our decision

The Appellants have not sustained the burden of showing that the Examiner erred in rejecting claims 258-261 and 267-270 under 35 U.S.C. § 103(a) as unpatentable over Smith and Avnet.

Decision 15

The Appellants argue Smith fails to describe singulating the bulk coins using a coin separation device (Request 2-7). The Appellants agree that that “singulating”

1 means “to make single and not commingled with other coins” (Decision 10 and
2 Request 3). However, Appellants contend that Smith fails to describe singulating
3 *using a coin separation device*. Smith further fails to require a structure to
4 singulate (Request 3). We begin by pointing out that Smith describes a structure
5 for accepting coins (Decision 6: FF 04-05). This structural slot only allows for a
6 single coin to be inserted at a time (Decision 6: FF 04-05). Although the user is
7 inserting the coins, the structure of the coin acceptor is singulating the coins as
8 they are inserted. If a user were to attempt to insert several coins into the device,
9 the coin acceptor would only allow a single coin to be accepted. This context and
10 definition of singulation is the same context and definition used in the claimed
11 invention. As such, the Appellants’ argument that Smith fails to describe a device
12 or structure that singulates using a coin separation device is not found persuasive.

13 The Appellants also argue that the claimed invention is distinguished from
14 Smith because the claimed invention utilizes a hopper to receive coins and a
15 sorting head to singulate coins in contrast to Smith’s coin acceptor (Request 3-6).
16 However, these features that the Appellants are arguing to distinguish the claimed
17 invention from Smith are not recited in the claim language. As such, this argument
18 is not found persuasive.

19 The Appellants additionally argue that Avnet fails to describe singulating using
20 a coin separation device (Request 6-8). However, this argument is not found
21 persuasive because the Appellants are attacking the reference individually, even
22 though the rejection is based on the combined teachings of the references.
23 Nonobviousness cannot be established by attacking the references individually
24 when the rejection is predicated upon a combination of prior art disclosures. *See In*
25 *re Merck & Co. Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986).

1 The Appellants further contend that we applied inconsistent definitions for a
2 bulk coin receptacle (Request 8-12). The Appellants specifically argue that we
3 correctly defined a bulk coin receptacle as a structure capable of *holding* a plurality
4 of coins and then incorrectly applied a definition for this term as a structure
5 capable of *receiving* a plurality of coins with respect to Smith's description of a
6 coin acceptor (Request 9-10). The Appellants further provide the rationale that
7 distinguishes *holding* and *receiving* coins is that the specification describes that the
8 separation of the coins is done subsequent to the loading of coins (Request 11).
9 We point out that the limitation [1] of claim 1 recites the receiving of bulk coins in
10 a bulk coin receptacle. As such, claim 1 requires that the proper definition for a
11 bulk coin receptacle is a coin acceptor that receives coins, not the loading or
12 holding of coins. The additional features of holding or loading coins are not
13 claimed. Therefore, this argument is not found persuasive since these limitations
14 are not found in the claim language.

15 For the above reasons we are not convinced of reversible error in our
16 decision. Accordingly, the Appellants' request for rehearing is denied.

17 DECISION

18 To summarize, our decision is as follows:

- 19 • We have considered the REQUEST FOR REHEARING.
- 20 • We DENY the request that we reverse the Examiner as to claims 258-261
21 and 267-270.
 - 22 ○ The rejection of claims 258-261 and 267-270 under 35 U.S.C.
23 § 103(a) as unpatentable over Smith and Avnet remains sustained.

Appeal 2009-006570
Application 10/084,856

DENIED

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